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IN THE DISTRICT COURT

ASKA

STATE OF NEBRASKA, ex rel.,  
JIM MACY, Director  
NEBRASKA DEPARTMENT OF  
ENVIRONMENTAL QUALITY,

Plaintiff,

v.

WAYNE HERRMANN, d/b/a GREAT  
PLAINS SEPTIC & AERATION, GREAT  
PLAINS SEPTIC, MID-STATES  
AERATION

Defendant.

Case No. CIU-8873**COMPLAINT**

ASSIGNED TO

Gleason

COMES NOW Jim Macy, Director of the Nebraska Department of Environmental Quality, who institutes this action through Douglas J. Peterson, Attorney General, on behalf of the State of Nebraska, and alleges as follows:

**CLAIM ONE**

1. The Plaintiff, the Nebraska Department of Environmental Quality ("NDEQ"), is at all times material herein, the agency of the State of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. § 81-1504 (1) (Reissue 2014) to administer and enforce the Environmental Protection Act, Neb. Rev. Stat. § 81-1501 *et seq.* (Reissue 2014), and all rules, regulations, orders, and permits issued pursuant to the Act.

2. At all times material herein, the Defendant, Wayne L. Herrmann, doing business as Great Plains Septic and Aeration, Great Plains Septic, Great Plains Pumping & Septic, and Mid-States Aeration, owned and operated a septic system installation business in Douglas County, Nebraska.



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3. Neb. Rev. Stat. § 81-1508.02 (1)(b) (Reissue 2014) is in effect at all times material herein and states that it is unlawful to violate any regulations promulgated pursuant to the Environmental Protection Act.

4. Pursuant to Neb. Rev. Stat. § 81-1505 (Reissue 2014), the Nebraska Environmental Quality Council adopted *Rules and Regulations for the Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems*, promulgated at Title 124 of the Nebraska Administrative Code, which is in effect at all times material herein.

5. Title 124 Neb. Admin. Code Ch. 22 § 001 requires the registration of on-site septic systems with NDEQ.

6. On or about May 20, 2014, the Defendant failed to register the septic system located at 18329 Sunset Lane, Omaha, Nebraska (hereafter, "Property") in violation of Title 124 Neb. Admin. Code Ch. 22 § 001 and Neb. Rev. Stat. § 81-1508.02 (1)(b) (Reissue 2014).

7. Pursuant to Neb. Rev. Stat. § 81-1508.02 (2) (Reissue 2014), a civil penalty not to exceed ten thousand dollars (\$10,000.00) per day per violation is provided in cases of violation of the Environmental Protection Act and any rules or regulations adopted and promulgated pursuant to such Act.

## **CLAIM TWO**

8. The Plaintiff incorporates the allegations made in Claim One.

9. Neb. Rev. Stat. § 81-1508.02 (1)(b) (Reissue 2014) is in effect at all times material herein, and states that it is unlawful for any person "to violate... any order of the director..."

10. On or about June 1, 2010 the Director of NDEQ and Defendant entered into a Consent Order, which is in effect at all times material herein, that provided in pertinent part:

"12. The Respondent shall perform the following activities:

... F. Once you have received authorization to practice under a certificate by examination, you must comply with all applicable requirements of Title 124 including, but not limited to, registration with the [NDEQ] of any onsite wastewater treatment system within forty-five (45) days of completion of the construction, reconstruction, alteration, modification, or other change to the system. Further Respondent agrees to cease air fracturing to fracture soil.”

11. The Consent Order was not contested by the Defendant and became a final Order on or about June 1, 2010.

12. On or about May 20, 2014, the Defendant performed an air fracturing process at the Property and failed to register the septic system in violation of the Consent Order and Neb. Rev. Stat. § 81-1508.02 (1)(b) (Reissue 2014).

13. Pursuant to Neb. Rev. Stat. § 81-1508.02 (2) (Reissue 2014), a civil penalty not to exceed ten thousand dollars (\$10,000.00) per day per violation is provided in cases of violation of the Environmental Protection Act and any rules or regulations adopted and promulgated pursuant to such an Act.

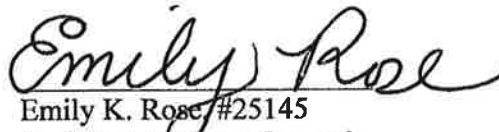
WHEREFORE, the Plaintiff prays that judgment on its claims be entered herein against the Defendant in the form of a civil penalty as provided under Neb. Rev. Stat. § 81-1508.02 (2) (Reissue 2014) together with the costs of this action.

DATED this 17<sup>th</sup> day of October, 2016

STATE OF NEBRASKA, ex rel.,  
JIM MACY, Director  
NEBRASKA DEPARTMENT OF  
ENVIRONMENTAL QUALITY, Plaintiff

By DOUGLAS J. PETERSON, #18146  
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By:




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Attorneys for Plaintiff

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Complaint has been served on the Defendant by regular United States mail, first class postage prepaid on this 17<sup>th</sup> day of October, 2016, addressed to the Defendant as follows:

Wayne L. Herrmann  
P.O. Box 45611  
Omaha, Nebraska 68130

  
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Emily K. Rose  
*Assistant Attorney General*